

Message Text

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TO USDEL SECRETARY PRIORITY

S E C R E T STATE 100424 TOSEC 110122

EXDIS

FOLLOWING REPEAT USUN 1743 ACTION SECSTATE 25 APR 76

QUOTE

S E C R E T USUN 1743

EXDIS

FOR KISSINGER, ROBINSON, MAW, LORD, LEIGH, AND D/LOS
FROM AMBASSADOR LEARSON

E.O. 11652: XGDS

TAGS: PLOS

SUBJ: LOS: EVALUATION OF CONFERENCE SESSION

1. IN RESPONSE TO THE REQUEST OF LORD, S/P, THIS CABLE PROVIDES ASSESSMENT OF STATE OF LOS NEGOTIATIONS AND ASSESSMENT OF POSSIBLE OUTCOME OF SESSION. DEL IS WORKING BEHIND SCENES WITH CONFERENCE PRESIDENT, COMMITTEE CHAIRMEN AND KEY DELS TO GAIN ACCEPTANCE OF U.S. AMENDMENTS TO SINGLE NEGOTIATING TEXT (SNT). ONCE COMMITTEE I TEXT IS ISSUED BY CHAIRMAN IN NEXT THREE OR FOUR DAYS, WE MAY HAVE TO MAKE DEMARCHE IN SELECTED CAPITALS TO MAINTAIN COMPROMISES WHICH WERE NEGOTIATED IN SECRET BRAZIL GROUP.

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EFFECTIVENESS IN CAPITALS DEPENDENT IN IMPORTANT RESPECT

ON QUOTE RIPENESS UNQUOTE OF ISSUE E.G. SUCCESS OF DEMARCHE REGARDING ARTICLE 9 (ECONOMIC IMPLICATIONS) IN PERU CLEARLY RELATED TO TIMING. IMPORTANT ISSUE ARISES REGARDING FORMALIZING OF AMENDED SNT AND WHETHER THE SNT WILL BE CONSIDERED NEXT SESSION IN PLENARY OR COMMITTEE. AMENDMENTS IN LATTER EASIER THAN IN FORMER HENCE THERE MAY BE CONFLICTING U.S. INTERESTS IN COMMITTEE I AND COMMITTEE II. DEL IS ACTIVELY CONSIDERING ISSUE AND EXPLORING ALTERNATIVES WITH SELECTED DELS.

2. WE HAVE TAKEN STEPS TO GENERATE SUPPORT FOR AN ADDITIONAL SESSION OF LOS CONFERENCE TO BE HELD THIS SUMMER TO COMPLETE SUBSTANTIVE WORK OF CONFERENCE. CABLE HAS BEEN SENT TO ALL DIPLOMATIC POSTS REQUESTING DEMARCHE AT FOREIGN MINISTER OR OTHER APPROPRIATELY HIGH LEVEL TO URGE THAT THEIR LOS DELEGATION BE INSTRUCTED TO SUPPORT ADDITIONAL SESSION. LOS DEL WILL ALSO MAKE MAJOR EFFORT TO GENERATE SUPPORT IN NY. WHILE VIEWS OF DELEGATIONS MAY IN PART DEPEND UPON EVALUATION OF OR EXPECTATIONS REGARDING NEW NEGOTIATING TEXT NOW BEING PREPARED BY CONFERENCE PRESIDENT AND COMMITTEE CHAIRMEN, THERE SEEMS TO BE A BETTER THAN EVEN CHANCE THAT A SECOND SESSION WILL BE CALLED FOR THIS SUMMER.

3. IF THERE IS A SECOND SESSION, A KEY QUESTION WILL BE HOW WE USE THE APPROXIMATELY 10 WEEKS BETWEEN SESSIONS. THERE IS A VERY REAL RISK THAT OUR LIMITED PERSONNEL WILL BECOME SO INVOLVED WITH INTERNAL STUDIES, CONGRESSIONAL RESTIVENESS ON THE DEEP SEABED MINING BILL, AND INTER-AGENCY ARGUMENTS - IMPORTANT AS ALL OF THESE MAY BE - THAT WE WILL BE UNABLE TO UNDERTAKE A REALLY EFFECTIVE LOBBYING EFFORT IN CAPITALS. THE PRECISE FOCUS OF THAT LOBBYING EFFORT WILL DEPEND ON THE TEXTS THAT EMERGE, BUT THERE IS LITTLE DOUBT THAT IT WILL BE ESSENTIAL TO SUCCESS.

4. COMMITTEE I. SPURRED BY SECRET BRAZIL GROUP AND US RESPONSIVENESS, WE HAVE GOOD CHANCE OF WINDING UP SESSION IN FAR BETTER POSITION ON THE DEEP SEABEDS THAN WE STARTED. HOWEVER, THERE WILL BE A MAJOR BATTLE IN THE GROUP OF 77 ON THE COMPROMISE TEXTS. NOT ENOUGH IS KNOWN AT THIS

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POINTS ON HOW FIERCE OPPOSITION WILL BE. SATISFACTORY SYSTEM OF ACCESS FOR STATES AND PRIVATE FIRMS TO SEABED RESOURCES REFLECTED IN NEW TEXT ISSUED BY CHAIRMAN, COMMITTEE I APRIL 23. PERU HAS NOW DROPPED INSISTENCE ON SECOND FIVE YEAR EXTENSION OF OVERALL LIMITATION OF PRODUCTION, THUS SOLIDIFYING SUPPORT FOR CRITICAL ARTICLE 9, (ECONOMIC IMPLICATIONS) WITHIN BRAZIL GROUP. GROUP OF 77 WILL MEET FOR THREE DAYS TO DISCUSS DEEP SEABED ISSUES TOWARD END

OF SESSION. WE HOPE FOR STALEMATE AND HENCE CONTINUED VIABILITY OF BRAZIL GROUP COMPROMISE TEXTS. MAJOR U.S. OBJECTIVE IS A VIABLE PACKAGE EXCEPT FOR ARTICLE ON COUNCIL STRUCTURE AND VOTING WHICH WE PLAN TO DEFER UNTIL SUMMER SESSION, BUT LAY FOUNDATION HERE. NO RESOLUTION HAS YET BEEN FOUND TO SOVIET AND FRENCH PRESSURE THAT WOULD LIMIT US ACCESS IN FAVOR OF OTHER DEVELOPED STATES (I.E., QUOTA SYSTEM ISSUE).

5. COMMITTEE II. THE PROCEDURES BEING USED IN COMMITTEE II, COUPLED WITH CHAIRMAN AGUILAR'S REFUSAL TO PERMIT INFORMAL MEETINGS WHILE THE COMMITTEE IS MEETING, TEND TO PLACE EVERYONE'S FUTURE IN THIS COMMITTEE IN THE HANDS OF AGUILAR WHEN HE PREPARES HIS REVISED TEXT. IF HE SIMPLY COUNTS HEADS REGARDING AMENDMENTS, HE CAN LEAVE THE TEXT AS IT STANDS, WHICH MEANS WE WILL HAVE SUFFERED NO LOSSES (E.G., ON STRAITS) BUT ALSO WILL HAVE MADE NO GAINS (E.G., LEGAL STATUS OF THE ECONOMIC ZONE). IF HE TRIES TO CONCILIATE, WE COULD PICK UP SOME POINTS IN SOME PLACES, BUT FACE EROSION IN OTHER PLACES. THE ATMOSPHERE IN COMMITTEE II IS UNEASY BECAUSE OF THE MASSIVE LANDLOCKED/GEOGRAPHICALLY DISADVANTAGED ATTACK DESIGNED TO GAIN THEM ACCESS TO RESOURCES IN THE ECONOMIC ZONE, AND THE SHARP COASTAL STATE REACTION. AN OPTIMISTIC VIEW WOULD BE THAT OUR CONCERNS ABOUT WHAT IS HAPPENING IN COMMITTEE II ARE IN FACT UNJUSTIFIED, AND THAT AGUILAR HAS CAREFULLY ADOPTED A PROCEDURE WHICH PERMITS HIM TO PRESERVE THE BASIC STRUCTURE OF THE COMMITTEE II TEXT AND KEEP DELEGATES BUSY IN COMMITTEE II WHILE NEGOTIATIONS PROCEED IN THE OTHER COMMITTEES. THE NAVIGATION ISSUES APPEAR TO BE IN GOOD SHAPE. STATUS OF WATERS IN ECONOMIC ZONE IS DIFFICULT ISSUE. DEBATE ON ISSUES INDICATES THAT CHAIRMAN PROBABLY WILL MODIFY TEXT IN OUR DIRECTION (HIGH SEAS)

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ALTHOUGH FORMULATION IS LIKELY TO BE SOMEWHAT VAGUE AT BEST. THE COASTAL AND ANADROMOUS FISHERIES ARTICLES SHOULD BE GENERALLY SATISFACTORY, WHILE WE CAN EXPECT LITTLE OR NO CHANGE IN THE QUESTIONABLE TUNA ARTICLE WITH THE COLLAPSE OF NEGOTIATIONS BY WESTERN HEMISPHERE NATIONS. THE CONTINENTAL MARGIN NEGOTIATION OF OUTER BOUNDARY AND REVENUE SHARING SEEMS TO BE ON TRACK. NEGOTIATIONS RELATING TO THE RIGHTS OF LANDLOCKED AND GEOGRAPHICALLY DISADVANTAGED STATES TO THE LIVING RESOURCES OF THE ECONOMIC ZONES OF NEIGHBORING STATES IS MOST CONTENTIOUS AND DIVISIVE. IT HAS CAUSED A HARDENING OF POSITION BY CERTAIN COASTAL STATES. BECAUSE OF LARGE NUMBER OF STATES INVOLVED THIS ISSUE IS A SERIOUS CONCERN. WE HAVE URGED AN EQUITABLE ACCOMMODATION AND ARE PARTICIPATING IN SMALL GROUP NEGOTIATIONS ON ISSUE, BUT DO NOT THINK A

SOLUTION HAS YET BEEN FOUND. WE ARE RELUCTANT TO ENTER THE FRAY ACTIVELY ON THIS ISSUE FOR MANY REASONS, AND MUST NOTE THAT SO LONG AS ISSUE IS NOT RESOLVED, THE GROUP OF 77 CANNOT FUNCTION AS A UNIT IN COMMITTEE 2 WHICH IS DESIRABLE AT LEAST FOR THE TIME BEING.

6. COMMITTEE III. WE THINK A BASIC SOLUTION ON POLLUTION IS WITHIN SIGHT, ALTHOUGH THE CONSERVATIVE EUROPEANS AND THE COASTAL STATES ARE STILL ENGAGED IN TACTICAL MANEUVERING. THE RESULT IS LIKELY TO BE VERY CLOSE TO US POSITIONS, WITH ONE POSSIBLE EXCEPTION REGARDING OUR DESIRE TO PERMIT COASTAL STATES TO ESTABLISH CONSTRUCTION STANDARDS IN THE TERRITORIAL SEA. ON THE LAST ISSUE, THE CONFERENCE MAY BE MOVING IN CONSERVATIVE MARITIME DIRECTION WHILE THE US MAINTAINS A STRONG COASTALLY-ORIENTED POSITION BECAUSE OF DOMESTIC LEGISLATION. THERE IS NEED FOR PROMPT APPROVAL OF INSTRUCTIONS REGARDING POLLUTION IN VULNERABLE AREAS OF ARCTIC TO SECURE CANADIAN AND SOVIET SUPPORT FOR CERTAIN ASPECTS OF US STRAITS, POLLUTION AND DISPUTE SETTLEMENT OBJECTIVES. THERE ARE SIGNS THAT THE MARINE SCIENTIFIC RESEARCH NEGOTIATIONS ARE SLOWLY HEADING TOWARD THE KIND OF COMPROMISE OUTLINED IN THE SECRETARY'S SPEECH, BUT THERE IS STILL ROUGH SLEDDING AHEAD. COASTAL STATES ARE BECOMING INCREASINGLY MILITANT THAT SCIENTIFIC RESEARCH IN ECONOMIC ZONE FOR MILITARY PURPOSES SHOULD BE SUBJECT TO CONSENT REGIME; IT WILL BE VERY DIFFICULT FOR
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THE US TO WIN THIS POINT.

7. DISPUTE SETTLEMENT: THE PRIMARY ISSUE IS QUESTION OF THE APPLICABILITY OF THE COMPULSORY DISPUTE SETTLEMENT (CDS) PROCEDURE IN ECONOMIC ZONE. TERRITORIALISTS AND NUMBER OF OTHER DEVELOPING COASTAL STATES ARE PRESSING TO EXCLUDE CDS FROM THE ZONE, ALTHOUGH SOME OF THOSE STATES ACCEPT CDS FOR DISPUTES INVOLVING NAVIGATION, OVERFLIGHT, AND CABLES. US DEVELOPED COUNTRIES AND LL/GDS WANT CDS IN ZONE. RESOLUTION THIS ISSUE PROMISES TO BE DIFFICULT.

8. POLITICAL SITUATION WITH SPECIFIC COUNTRIES. INDIA IS BEING DIFFICULT IN ALL COMMITTEES ON ISSUES OF CONCERN TO THE US, WITH RUMORS FLOATING IN THE CONFERENCE THAT HER REASONS ARE RELATED TO GENERAL US-INDIAN RELATIONS. WHILE CHINA CONTINUES ITS POLITICAL ATTACKS ON THE SUPER-POWERS, PARTICULARLY THE USSR, THERE IS SOME REASON TO BELIEVE THAT SHE IS NOT INTENT ON WRECKING THE NEGOTIATIONS. RELATIONS WITH THE GROUP OF 5 CONTINUE TO BE GOOD, BUT HAVE BEEN STRAINED BY OUR DIFFERENCES WITH THEM ON THE DEEP SEABED QUOTA ISSUE: IT IS FAIRLY CLEAR THAT ALL EXCEPT FRANCE WANT A CONVENTION THIS YEAR. OUR RELATIONS WITH

ALL LATINS IN COMMITTEE I, CONTINUE TO BE GOOD. ISRAEL
IS INCREASING ITS PRESSURE ON US ON ISSUES OF IMMEDIATE
CONCERN, SINCE IT PERCEIVES THAT THE CONFERENCE IS NOW
ENTERING ITS FINAL STAGES. A NUMBER OF AFRICAN STATES
ARE PLAYING IMPORTANT ROLE IN CONFERENCE. SECRETARY HAS
TALKING POINTS ON AFRICAN LOS ISSUES.

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